HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.3994 of 2000

Dated 24th day of April, 2007

Between:

Sakamuri Rukmini Devi .. Petitioner

And

The Collector under Section 41-A,
Indian Stamps Act and District
Registrar, Vijayawada, Kalanagar,
Vijayawada
and another .. Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the notice dated 10.2.2000 issued by the 1st respondent under Section 41-A of the Indian Stamp Act,

1899 (for short "the Act") in respect of document No.539 of 1995 directing the petitioner to pay Rs.1,11,670/- + Rs.4,545/- towards total stamp duty within 30 days from the date of the notice, as arbitrary and illegal.

The brief facts of the case are that the petitioner purchased the property bearing Municipal No.29-15-4 together with the appurtenant land. When the vendor executed the sale deed on 30.3.1995 and it was presented before the Sub-Registrar for registration on 25.7.1995, the petitioner initially paid stamp duty of Rs.25,010/- to the vendor based on the factual consideration. The 2nd respondent kept the document pending, conducted spot inspection and demanded the petitioner to pay deficit stamp duty of Rs.25,235/- according to the provisions of the Act and the petitioner accordingly paid it. Now, the grievance nurtured by the petitioner is that the 1st respondent issued a notice dated 30.10.1999 demanding him to pay a deficit stamp duty of Rs.61,425 + 2360/- (total stamp duty, according to his notice dated 10.2.2000, comes out Rs.1,11,670/- + 4,545/-) and subsequently, 1st respondent issued the impugned notice under Section 41-A of the Act in respect of document No.539 of 1995, directing her to pay a total stamp duty determined at Rs.1,11,670/- + Rs.4,545/- within 30 days from the date of the notice.

A detailed counter affidavit is filed wherein it is stated that the District Registrar and Collector, under Section 41-A of the Act, issued proceedings and asked the party to pay the deficit stamp duty since the document was not duly stamped and treated to execute the document on white paper as per the Act based on the relevant material available with the office.

Heard the learned counsel for the both the parties.

The submission of the learned counsel for the petitioner is well-founded. According to Sub-Section (3) of Section 47-A of the Act, the Collector may *suo motu,* within two years from the date of registration of any instrument may determine the market value of such property and direct the person concerned to pay difference of stamp duty. In the instant case, initially, the petitioner paid an amount of Rs.25,010/- towards stamp duty, but the Sub-Registrar, on examination, held that the deficit stamp duty to be paid is Rs.25,235/- and the same was also paid, in pursuance of which sale deed was registered on document No.539 of 1995 on 25.7.1995. So, for all purposes, the *suo motu* powers conferred on the Collector can be exercised on or before 24.7.1997 but not beyond that. In the instant case, evidently, the Collector exercised his *suo motu* revisionsal jurisdiction and issued a notice on 30.10.1999 i.e. after a lapse of about more than four years. Hence, this Court has no hesitation to come to the conclusion that the issuance of notice is beyond the powers conferred under Sub-Section 3 of Section 47-A of the Act.

In the result, this writ petition is allowed and the impugned notice dated 10.2.2000 issued by the 1st respondent directing the petitioner to pay Rs.1,11,670/- + Rs.4,545/- towards total stamp duty (inclusive of deficit stamp duty) and the notice dated 30.10.1999 are hereby set aside. No costs.

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24.04.2007

bcj